

Minutes
Catawba County Board of Commissioners
Regular Session, Monday, November 21, 2005, 7:00 p.m.

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The Catawba County Board of Commissioners met in regular session on Monday, November 21, 2005, at 7:00 p.m. in the 1924 Courthouse, Robert E. Hibbitts Meeting Room, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Dan Hunsucker, Commissioners Glenn E. Barger, Lynn M. Lail and Barbara G. Beatty.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Joellen Daley, Assistant County Manager Lee Worsley, County Attorney Robert Oren Eades, Attorney Debra Bechtel and County Clerk Barbara E. Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:05 p.m.

2. Commissioner Glenn Barger led the Pledge of Allegiance to the Flag.
3. The Invocation was offered by Chair Barnes.
4. Vice-Chair Dan Hunsucker made a motion to approve the minutes from the Special Session of October 21, 2005 and the Regular and Closed Session meetings of November 7, 2005. The motion carried unanimously.
5. Recognition of Special Guests.
Chair Barnes welcomed the graduates of the County Government Class and County Manager J. Thomas Lundy welcomed Mark Logan as a participant in the Leadership Catawba class.
6. Presentations:
Dave Hardin, Public Information Officer and Chair Barnes recognized six citizens who had completed Catawba County's County Government Course. They presented Certificates of Achievement to Pastor Don Bledsoe, Ms. Carlene Sifford and Mr. Ben Sifford who were present at the meeting and certificates would be mailed to Ms. Mary Bell, Ms. Clara Hall and Ms. Joyce Salter who were unable to attend. Chair Barnes thanked Dave Hardin for the work he put into the class.
7. Public Hearings:
 - a. Jacky Eubanks, Planning Director, presented a request for the Board to consider amending the St. Stephens/Oxford Small Area Plan text along with Map 6 St. Stephens/Oxford SAP Future Land Use Map Recommendation. Specifically, to consider the intersection of Houston Mill Road and Springs Road as a Rural Commercial node on the future land use map.

At their regularly scheduled September 26, 2005 meeting, the Planning Board held a public hearing to consider the request of Buddy Houston to rezone three (3) contiguous properties totaling 1.64-acres from the R-2 Residential District to the C-1 Commercial District. The properties are located on Springs Road at the northeast intersection of Houston Mill Road and Springs Road in the St. Stephens Small Area Planning District. The parcels are further identified as parcel ID numbers 3734-12-87-4024 (.48-acres), 3734-12-87-4185 (.56-acres), and 3734-12-87-5267 (.6-acres).

Staff recommended not rezoning the property based on the Small Area Plan showing the intersection remaining residential. At the meeting there was enough information presented that caused the Planning Board members to table action until the October 24, 2005 meeting date. Staff recommended input from the Small Area Plan members to consider a change to the land use plan, specifically to consider the intersection of Houston Mill and Springs Roads as a Rural Commercial node.

The information presented at the September 26, 2005 meeting that prompted the Board to reconsider the land use plan included:

- Since the adoption of the Land Use Plan on April 21, 2003, there has not been any residential construction on these three parcels nor on parcels near this intersection.
- All recent development in the area has been commercial. Three rezoning requests have been approved on nearby properties since 1994.

Rezoning Activity

- July 20, 1994, parcel #13 was rezoned from the R-2 Residential district to the C-2 Commercial district.
- July 20, 1994, parcel #14 was rezoned from the R-2 Residential district to the E-1 Industrial district.
- August 21, 2000, parcel #15, was rezoned from the R-2 Residential district to the C-2 Commercial district.
- The nearest recommended future commercial areas are 2 miles to the north, a future Neighborhood Commercial node at St. Peters Church Road and Springs Road, and 2 miles to the south, a future Commercial Corridor along Springs Road. Having a commercial node at the Houston Mill and Springs Road intersection could fill a void and provide services to the immediate neighborhoods.

- The Planning Board felt that a Rural Commercial node would be more appropriate at the intersection rather than only recommending the three parcels as commercial.

Staff assembled the St. Stephens/Oxford Small Area Planning Committee members for a meeting, which was held on October 6, 2005. The purpose of the meeting was to discuss amending the Small Area Plan. The committee members unanimously recommended that the Land Use Plan be amended.

The St. Stephens/Oxford Small Area Planning Committee members recommended amending the St. Stephens/Oxford Small Area Plan as follows:

1. Change the text in the Land Use and Economic Development sections to add a Rural Commercial node at the intersection of Houston Mill Road and Springs Road.
2. Amending Map 6 St. Stephens/Oxford SAP Future Land Use Recommendations to show a Rural Commercial node at the intersection on Houston Mill Road and Springs Road.

The Planning Board conducted a public hearing on October 24, 2005. No one from the public addressed the Board. The Planning Board voted unanimously to approve the amendments to the St. Stephens/Oxford Small Area Plan to create a Rural Commercial Node at the intersection of Houston Mill Road and Springs Road with a subsequent request to the Board of Commissioner for approval.

Chair Barnes asked for any questions regarding this request and noted the public hearing had been duly advertised and she opened the floor for any comments. Hearing and seeing no one wishing to speak, Chair Barnes closed the public hearing. Commissioner Lynn Lail made a motion to approve the requested change and the below ordinance. The carried unanimously.

Ordinance No. 2005-

AMENDMENT TO THE ST. STEPHENS/OXFORD SMALL AREA PLAN

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, that the St. Stephens/Oxford Small Area Plan is hereby amended by the following:

- Amend the text in the Land Use and Economic Development sections to add Houston Mill Road and Springs Road as a Rural Commercial node.
- Amend Map 6 St. Stephens/Oxford SAP Future Land Use Recommendations to show a Rural Commercial node at the intersection on Houston Mill Road and Springs Road.

This the 21st day of November 2005.

b. Jacky Eubanks, Planning Director, presented a request by Buddy Houston to rezone three (3) contiguous properties totaling 1.64-acres from the R-2 Residential District to the C-1 Commercial District.

The properties are located on Springs Road at the northeast intersection of Houston Mill Road and Springs Road in the St. Stephens/Oxford Small Area Planning District, Clines Township. The parcels are further identified as parcel ID numbers:

- 3734-12-87-4024 (.48-acres), parcel #1
- 3734-12-87-4185 (.56-acres), parcel #2
- 3734-12-87-5267 (.6-acres), parcel #3

The subject properties are undeveloped. The surrounding area is developed with a mix of uses.

- North – Most of the properties to the north are zoned R-2 Residential and developed with housing. The R-2 Residential District allows singlewide manufactured homes, doublewide manufactured homes, modular homes, stick-built single-family housing and two-family dwellings as permitted uses. Parcel #11 is developed with a hair salon and zoned O-I Office Institutional. The O-I district provides a transition zone between residential and commercial or industrial uses and districts and accommodates a mixture of moderate-density residential, office and institutional uses. Parcel #12 is zoned C-3 Commercial and vacant. The C-3 district was created to recognize non-conforming commercial uses but does not allow for expansion or creation of new C-3 districts.
- East – Most of the properties to the east are zoned R-2 Residential and developed with housing. Parcel #13 is developed with a small engine repair business and zoned C-2 Commercial and parcel #14 is developed with a welding shop and zoned E-1 Industrial. Approximately ¾-miles further east another E-1 Industrial district is established. The C-2 district is intended to provide land for convenience shops and specialty retail goods and business and personal services to the traveling public and the residents of neighborhoods. The E-1 district is intended to provide for the development of areas devoted to light manufacturing, processing and assembly uses, warehousing, distribution and servicing enterprises and limited office activities.
- South – Properties to the south are also mainly zoned R-2 Residential but are somewhat less developed with housing.
- West – Most of the properties to the west are zoned R-2 Residential and developed with housing. Parcels #8 and #9 are developed with houses and zoned R-2 Residential. Parcel #10 is developed with the Open Door Baptist Church and zoned R-2 Residential. The City of Hickory's zoning jurisdiction is approximately ¾ –miles to the west. Parcel #16 is developed with a manufactured home park.

Rezoning History:

- July 20, 1994, parcel #13 was rezoned from the R-2 Residential district to the C-2 Commercial district and parcel #14 was rezoned from the R-2 Residential district to the E-1 Industrial district. According to the file, commercial activity was supported on this parcel due to the pre-existing non-conforming hardware store and that there are other nearby commercial uses. It also mentions the area as a transition zone under the land use plan that was in effect.
- April 17, 1995, parcel #11, was denied rezoning from the O-I Office Institutional district to the C-1 Commercial district. According to the file, the O-I district is intended to provide a transition zone between residential and commercial uses; therefore, commercial zoning would not be recommended at this site. Also noted was the area had primarily residential uses which did not support commercial activity.
- August 21, 2000, parcel #15, was rezoned from the R-2 Residential district to the C-2 Commercial district. Staff and the Planning Board did not support the request due to the it not being consistent with the VisionQuest 2010 Comprehensive Plan, which encouraged planned developments but not strip commercial development.

Intent:

"The C-1 commercial district is intended to provide land for the sale of convenience goods and limited personal services to residents of the immediate neighborhood. These districts shall be located at intervals of at least one mile along arterials and collector streets, preferably at intersections."

Utilities:

Public water is available along both Houston Mill Road and Springs Road. Connection requirements would be through the Utilities and Engineering Department and would be based the water demand of the use. Public sewer is not available.

Springs Road is designated as an Urban Major Thoroughfare on the Catawba County Thoroughfare Plan. Major thoroughfares consist of Interstate, Intrastate, other freeways, expressways, or parkway roads, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas. The closest traffic counts were taken 2-miles south on Springs Road and were 11,000 Average Daily Trips (ADT). The road is designed to handle 14,800 ADT.

The Transportation Plan projects traffic on the 2-lane section of Springs Road going north from County Home Road to NC Hwy. 16 to double to 22,000 ADT by 2025. This capacity is beyond the practical capacity of a 2-lane road; therefore, the Transportation Plan recommends that this section of Springs Road be widened to a 4-lane divided boulevard with grass median. The St. Stephens/Oxford Small Area Plan also recommends the widening of Springs Road to a four-lane road with a landscape median. This is an unfunded project in the 2004-2010 State Transportation Improvement Plan (STIP).

The Board of Commissioners adopted the St. Stephens/Oxford Small Area Plan on April 21, 2003 which serves as the current land use plan for this area. This plan is used as a guide for new growth. Currently the Plan is being considered for revisions to show a future Rural Commercial node at the intersection of Houston Mill Road and Springs Road. A Rural Commercial node is defined in the St. Stephens/Oxford Small Area Plan as having a maximum total area of 10 acres per node and a maximum gross leasable area of 15,000 square feet per lot. Land uses that would typically be found in a Rural Commercial node are those that equate to the current C-1 Commercial land uses.

The Planning Board conducted a public hearing on October 24, 2005. No one spoke in opposition to the request. The owner spoke in favor of the request. The Planning Board unanimously recommended approval of the request to rezone three (3) contiguous properties totaling 1.64-acres from the R-2 Residential District to the C-1 Commercial District with a subsequent request to the Board of Commissioners for approval based upon:

Chair Barnes opened the public hearing and noted it had been duly advertised and opened the floor for any comments. Hearing and seeing no one wishing to speak, Chair Barnes closed the public hearing. Commissioner Barger noted in light of the action that had been taken prior to this request, the Board should approve this request and made a motion to do so and approve the following ordinance. The motion carried unanimously.

Ordinance No. 2005-

AMENDMENT TO THE CATAWBA COUNTY ZONING MAP

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, that the Catawba County Official Zoning Atlas is hereby amended by rezoning the following described properties from the R-2 Residential District to the C-1 Commercial District. Catawba County Parcel Identification Numbers:

- 3734-12-87-4024 (.48-acres)
- 3734-12-87-4185 (.56-acres)
- 3734-12-87-5267 (.6-acres)

This the 21st day of November 2005.

c. Jacky Eubanks, Planning Director, presented a request by Morgan Shepherd to rezone an .85-acre parcel from the R-2 Residential District to the C-2 Commercial District.

The property is located at 4890 Jeffery Lane off of Springs Road in the St. Stephens/Oxford Small Area Planning District, Clines Township, and further identified as Parcel Identification Number 3734-17-02-5055, The subject parcel is developed with a garage adjacent to the applicants' home (parcel #2). The use of the garage on parcel #1 has since changed to store cars for a business use. This is the basis for the rezoning request. If the rezoning is approved, parcel #1 will be combined with a portion of parcel #2 to form a 40,000 square foot lot, which conforms to the C-2 Commercial District.

- North/East/West – Springs Road is a C-2 Commercial corridor containing a mixture of commercial and residential uses. Specifically, parcel #5 contains a barber and beauty shop and a house and zoned C-2 Commercial, parcel #6 contains a house and zoned R-2 Residential. The R-2 Residential District allows singlewide manufactured homes, doublewide manufactured homes, modular homes, stick-built single-family housing and two-family dwellings as permitted uses. Parcel #7 is vacant and zoned R-2 Residential, parcel #8 contains two duplex's and zoned R-2 Residential, parcel #9 contains a house and zoned R-2

Residential, parcel #3 contains the Killian's Tire Store and zoned C-2 Commercial, parcel #10 contains two duplex's and zoned R-2 Residential, parcel #11 contains mini-warehouses and zoned C-2 Commercial, parcel #12 and #14 across Springs Road contains Sigmon's Bark and Mulch and zoned C-2 Commercial and parcel #13 contains Killian's Hardware and zoned C-2 Commercial.

- South – Properties to the south contain residential homes and consist mainly of .5-acre developed lots and zoned R-2 Residential.

Rezoning History

- December 16, 2002, parcel #14, rezoning case R-467, was rezoned from R-2 Residential to C-2 Commercial.

Intent:

The Catawba County Zoning Ordinance, Section 515.021 C-2 Commercial District states "The C-2 District is intended to provide land for the provision of convenience shops and specialty retail goods and business and personal services to the traveling public and the residents neighborhoods. The C-2 District shall be located with direct access to arterial and collector streets. Proposals for larger sites offering a greater amount of goods and services shall use the planned development approach".

Utilities:

The parcel is being served by a private well and septic system.

Transportation:

Springs Road is designated as a major thoroughfare by the Hickory-Newton-Conover Urban Area Transportation Plan (September 2001). Major thoroughfares are defined as primary traffic arteries of the urban area. Their purpose is to move traffic from city to city and within urban areas; therefore, strip development and multiple driveway access is to be discouraged.

Springs Road is a 4-lane road from the west and narrows down to a 2-lane road directly in front of the subject parcel going east. The 2001 traffic counts at the property location on Springs Road were 14,000 Average Daily Trips (ADT). The capacity of the road at the site was 14,800 ADT in 1992. The Transportation Plan projects traffic in the vicinity of the subject parcel and on the 2-lane section of Springs Road going north from County Home Road to NC Hwy 16 to double to 22,000 ADT by 2025. This is beyond the practical capacity of a 2-lane road; therefore the Transportation Plan recommends that this section of Springs Road be widened to a 4-lane divided boulevard with grass median. The Transportation Plan recommends future road improvements to handle 33,600 ADT, but this is an unfunded project in the State Transportation Improvement Plan (STIP). The St. Stephens/Oxford Small Area Plan also recommends the widening of Springs Road.

Land Use Plan:

The St. Stephens/Oxford Small Area Plan, adopted on April 21, 2003, serves as the current land use plan for this area. The plan identifies this section of Springs Road as a Commercial Corridor. The Commercial Corridor would start at the intersection of County Home Road and Springs Road and extend west along Springs Road to Hickory's planning jurisdiction.

Staff considered this request to be in conformance with the adopted land use plan. The size of the parcel in question prohibits large-scale commercial uses. Additionally, the parcels surrounding the subject property have developed commercially; therefore, rezoning the subject parcel to commercial would extend the already established C-2 Commercial district, as opposed to establishing a new commercial district.

The Planning Board conducted a public hearing on October 24, 2005. One citizen addressed the Board and was opposed to the rezoning. He was not opposed to Mr. Shepherd's current operation, but rather had concerns as to what could operate in the future. Staff addressed the Board and commented that they should be aware that a request to rezone to a specific district would allow for all uses that are within that district. Staff also received two letters of opposition from adjoining property owners. One letter specified that they owned rental property adjoining Mr. Shepherd and felt that the area should remain residential while the other letter merely stated an opposition to the request.

The Planning Board had some concerns. They felt that a commercial property would be better served fronting a State road as opposed to access off a private road. The access to Mr. Shepherd's property is from Jeffery Lane, a private road that serves as access to another property. Additionally, in order for Mr. Shepherd's property to qualify as a valid C-2 zoning lot it would have to be combined with a portion of the adjoining lot to form a 40,000 square foot lot. Mr. Shepherd also owns this adjoining lot so it would be a valid combination from a zoning and tax perspective. The concern from the Board was that the portion to combine crosses over Jeffery Lane. Staff did not sense an issue since it would not deny access to the other property owner who uses Jeffery Lane.

Planning Board Recommendation: A motion was made to approve the request but failed by a 3 to 5 vote.

Chair Barnes opened the public hearing and noted that the hearing had been duly advertised.

Mr. Gates Deal came forward and said he owned the duplexes that were right behind the property at issue. He said his concern was not how the property was currently being used but if the property was rezoned, in the future noise could become an issue in his ability to rent his eight apartments. He stated he was against the rezoning.

Donna Fair, lives on Jeffrey Lane, next to Mr. Shepherd. Ms. Fair said they had moved the area one year ago and enjoy the quiet. She too said she had no problem with the current usage but was concerned what would happen with the property if it were rezoned.

Morgan Shepherd came forward to speak and pointed out that there were already commercial properties near the property at issue and asked that the rezoning be approved.

Mr. Kyle Lane came forward and said his property did not adjoin the property at issue but was the next lot over. His concern was for retaining the quiet, residential atmosphere and was against the rezoning.

Hearing and seeing no one wishing to speak further, Chair Barnes closed the public hearing. Chair Barnes asked Mr. Eubanks if Jeffrey Lane was a state maintained road. Mr. Eubanks said it was a private road. Vice Chair Hunsucker asked the purpose of the rezoning and Mr. Eubanks said it was to put Mr. Shepherd's current business in conformance with the zoning ordinance. It is currently not zoned for commercial and is used commercially and is not grandfathered. The building is essentially a storage building and it has been used only for storage up until recently when they started doing their business there. This was occurring because they were getting another building they had leased ready for use and planned to be in there in approximately two weeks. Mr. Eubanks said there could be some flexibility if the building would just be used for storage only. The Board members all agreed if the building was used for storage only it could remain as it stands. The members asked County Attorney Robert Eades for his input and he advised that it appeared the usage of the storage building could be associated with the residence, not the racing business, and the activity would be very low and that should be okay. He further stated the Board did not have to rezone the property if Mr. Shepherd's move of the racing business was coming shortly and the building would go back to just being storage. Vice-Chair Hunsucker made a motion to deny the rezoning of the property with the understanding that it would be used for storage only and the County would work with Mr. Shepherd to give him time to move his racing operations (2-4 weeks). The motion carried unanimously.

d. Jacky Eubanks, Planning Director, presented a request to closeout the 2003 Community Development Block Grant Scattered Site Housing Grant. In 2003 Catawba County was awarded a \$400,000 Scattered Site CDBG Housing Grant - Project #03-1121 – to rehabilitate twelve (12) homes throughout the County. Eleven (11) homes have been rehabilitated and one home was completely demolished and replaced with a new structure on the same lot. The County is not required to match funds for this grant; CDBG funds financed 100% of the total project costs.

This grant must be closed in November 2005 so Catawba County will receive its next allocation of \$400,000 for the year 2006 cycle of this grant. This grant funding is funded on a three (3) year cycle.

Chair Barnes noted that this public hearing had been duly advertised and opened the public hearing. Hearing and seeing no one wishing to speak, Chair Barnes closed the public hearing. Commissioner Barbara Beatty made a motion to close out the CDBG Scattered Site Housing Grant. The motion carried unanimously.

e. Barry Edward, Utilities and Engineering Director, presented a request to closeout the \$850,000 Community Development Block Grant (CDBG) Advent Crossroads Water Project.

Catawba County was awarded an \$850,000 Community Development Block Grant from the Department of Commerce, Division of Community Assistance on November 13, 2002 to install a ground storage tank, a pump station, 18,800 LF of water line and connect 51 residents to the water line. The infrastructure improvements and grant requirements have been completed. CDBG funds financed 66% of the total cost of the project. As part of the closeout requirements, a public hearing must be held in order to receive public comment.

Facts:

The grant has been completed.

All of the CDBG funds have been optimized and expended.

A total of 51 households received municipal water through this grant.

A public hearing is required to closeout project.

Chair Barnes opened the public hearing, noting it had been duly advertised. Hearing and seeing no one wishing to speak, Chair Barnes closed the public hearing. Vice-Chair Hunsucker made a motion to close out the Community Development Block Grant (CDBG) Advent Crossroads Water Project Grant. The motion carried unanimously.

f. Eric Ben-Davies from Piedmont Wagon Transit System presented a request for the Board to approve the FY 2006-07 Community Transportation Program Grant Application.

The Community Transportation Program is an annual grant that is available from the North Carolina Department of Transportation---Public Transportation Division. The purpose of the grant is to provide funds for administration and capital expenses for counties that meet the requirements of coordination and consolidation of transportation services. The funding covers eighty-five (85%) of allowable administrative expenses and ninety percent (90%) of capital funding. This will be the eighth year that Catawba County has qualified for this grant.

The FY 2006-2007 Community Transportation Application is projecting a total of \$158,275.00 in administrative expenses and \$61,324.00 in capital expenses. The requested funding from NCDOT will be \$134,534.00 for administrative expenses and \$55,192.00.00 for capital expenses. The required match from Catawba County is \$23,741.00 for administrative expenses and \$6,132.00 for capital, making a total local match requirement of \$29,873.00. The capital funding would be for the purchase of two conversion vans as replacements for vehicles that are currently been used to provide transportation to nutrition and recreation centers and for medical appointments and grocery shopping. The two vans to be replaced would be auctioned.

These funds will allow the consolidated transportation system in Catawba County to continue to provide transportation to senior citizens, the community of the disabled, human services clients and the general public living outside of the urbanized area. The primary trip purposes are nutrition for senior citizens, medical appointments, shopping, education, employment and transport to human services facilities.

Chair Barnes opened the public hearing, noting the public hearing had been duly advertised. Hearing and seeing no one wishing to speak, Chair Barnes closed the public hearing. Vice-Chair Hunsucker made a motion to authorize the resolution for the request of funds. The motion carried unanimously.

8. Public Comment for Items not on the agenda. None.

9. Appointments.

Chair Barnes requested the Board reappoint her to the Hickory Metro Higher Education Center Board of Directors. Commissioner Barbara Beatty recommended the reappointment of Larry Johnson to a second term and the appointment of Donna Herman and Scott Rhoney to first terms on the Catawba County Board of Adjustment. Commissioner Lynn Lail recommended the appointment of Mary Benson to an unexpired term on the Mental Health Board. These recommendations came in the form of a motion. The motion carried unanimously.

10. Departmental Reports.

a. Utilities and Engineering:

1. Toni Norton, P.E., Water Resources Engineer, presented an update on the Erosion Control Program and the Erosion and Sedimentation Control Program Grant.

On May 2, 2005, the Board of Commissioners held the second required public hearing and approved the adoption of a Soil Erosion and Sedimentation Control Ordinance. On May 19, 2005, the North Carolina Sedimentation Control Commission (SCC) approved Catawba County's request for the Local Control Program. In addition, the SCC awarded Catawba County a Local Program Assistance Grant of \$38,587. However, the Local Control Program Grant funds availability was dependant upon appropriation by the North Carolina General Assembly for the fiscal year 2005-2006.

On July 1st, 2005 the Catawba County Utilities & Engineering Department began administering a local soil erosion and sedimentation control program. The NC DENR office in Mooresville transferred active files to Catawba County on June 30th, 2005. While this file transfer was expected, the sheer number of open, active projects was not. Staff used the months of July and August to inspect all 221 projects and close out 111 of them. Over one-third of the DENR projects had not been inspected after 2003 and a full 17% had never been inspected. In addition to the 110 active files from DENR, 13 new projects have been submitted to the County as of November 11th. All thirteen submitted projects have had plans reviewed and approved within 10 days of submittal. Funds collected to date (4 months of this fiscal year) are 49% of budgeted amount for Fiscal Year 2005-2006.

Violation Cases (complaints from our citizenry) have kept staff busy in between normal inspections. These cases vary from the do-it-yourself homebuilder to more experienced contractors. In most instances County staff have been able to resolve erosion issues without resort to Notice of Violation. Staff has worked to establish good relationships with area contractors and developers to insure compliance with the County's erosion control ordinance.

On September 26, 2005, Catawba County received notification from NC DENR that the Program Assistance Grant funds were appropriated by the General Assembly and subsequently awarded. The Local Program Assistance Grant focuses on the start-up and initial operating costs for training and education, travel, telephone service, dues and subscriptions, postage, advertising, vehicle maintenance, salary and benefits; along with enhancement and expansion of the Local Program. The funding sources are as follows:

NC DENR, Local Control Program Assistance Grant – 40%	\$38,587
Catawba County required match – 60%	\$57,881

The Water and Sewer Reserve Fund will be utilized for the County's required 60% match, but only the actual dollar amounts expended and approved for grant reimbursement will be transferred from the Reserve Fund.

Current Statistical Data/ Information/ Update

Active projects received from DENR, Mooresville, July 1,2005	221
DENR projects closed between July 1 st and October 31 st	111
Active DENR projects as of October 31, 2005	110

New projects submitted to Catawba County Permit Center	13
Acreage submitted for permitting	120
Fees collected for new permits.....	\$17,600.00
Sedimentation Commission Start-up Funds.....	\$38,587.00
 Routine Inspections performed	 205
 Violation Cases opened between July 1 st and October 31 st	 42
Violation Cases closed	18
Initial contact made via letter.....	24
Notices of Violation sent.....	4
Violation Inspections Performed.....	58

Commissioner Glenn Barger made a motion to accept a North Carolina Sedimentation Control Commission's Local Program Assistance Grant from the North Carolina Department of Environment and Natural Resources (NC DENR), Division of Land Resources for Catawba County's Local Erosion and Sedimentation Control Program in the amount of \$38,587 and approve the attached budget revision. The motion carried unanimously.

Supplemental Appropriations

Revenue (Increase):	
110-430300-695230.....	\$57,881
From Water and Sewer Reserves	
230-170050-690100.....	\$57,881
Fund Balance Applied	
110-430300-.....	\$38,587
Erosion Control Local Program Assistance Grant	
 Expense (Increase):	
230-170050-695110.....	\$57,881
To General Fund	
110-430300-812100.....	\$68,333
Regular Wages	
110-430300-812700.....	\$1,430
Longevity	
110-430300-821000.....	\$5,253
FICA	
110-430300-822100.....	\$3,358
Local Gov't Retirement	
110-430300-823100.....	\$5,956
Group Health	
110-430300-823300.....	\$275
Group Dental	
110-430300-823600.....	\$175
Disability Long-Term	
110-430300-823610.....	\$117
Basic Life Insurance	
110-430300-825500.....	\$77
Disability Short-Term	
110-430300-835005.....	\$4,740
Motor Fuels Gas	
110-430300-835020.....	\$541
Tire and Tubes	
110-430300-841010.....	\$1,500
Travel and Transportation	
110-430300-841020.....	\$2,500
Training and Education	

110-430300-841025.....	\$100
Dues and Subscriptions	
110-430300-841505.....	\$1,500
Telephone	
110-430300-841510.....	\$250
Postage	
110-430300-841515.....	\$363
Advertising	

2. Amanda B. Kain, Waste Reduction Coordinator/Educator presented the November 5, 2005 Hazardous Waste and Electronics Collection Event Update and a request to accept the 2005 community Waste Reduction Recycling Grant.

On Saturday, November 5th, 2005, Catawba County held its 8th Household Hazardous Waste (HHW) collection event and its 2nd full electronics waste (E-Waste) collection event. Catawba County, City of Hickory, and Garbage Disposal Service GDS sponsored the event.

This year an estimated 520 vehicles came through the drop-off at the LP Frans Stadium representing approximately 580 households (60 vehicles represented multiple households). 280 vehicles dropped off household hazardous waste only, 90 vehicles dropped off e-waste only, and 150 vehicles dropped off both household hazardous waste and e-waste. High volumes of paint, computers, and televisions were collected.

This was the 2nd event to include expanded e-waste collection including all types of electronic devices including stereo equipment, microwave ovens, VCR's, telephones, fax machines, copiers, camcorders, computers/laptops, keyboards, printers, remote controls, cellular phones, etc...

Event staff and volunteers this year were:

Amanda Kain, Catawba County Recycling Coordinator
Dave Hardin, Catawba County Public Information Officer
Jack Chandler, Public Services Administrator
John Yvars, City of Hickory
City of Hickory Staff

Ms. Kain then presented the request for acceptance of the 2005 Community Waste Reduction Recycling Grant from the North Carolina Department of Environment and Natural Resources (NC DENR), Division of Pollution Prevention and Environmental Assistance (DPPEA) for partial reimbursement of advertising expenses in the amount of \$7,700.

Both Catawba County and the City of Hickory currently have comprehensive recycling programs. Both programs offer curbside and drop-off center services for collection of residentially generated recyclables, including multi-family dwellings, as well as commercial collection programs for office paper, corrugated cardboard, food and beverage containers, and newsprint.

While waste reduction and recycling efforts are proving to be effective for Catawba County and the City of Hickory, this grant funding supports a joint public awareness campaign and enhances the established programs.

DPPEA supports unique and innovative techniques to create public awareness about waste reduction and recycling and provides assistance through the Community Waste Reduction Recycling Grant. Catawba County and the City of Hickory proposed a billboard advertising campaign to NCDENR, DPPEA that sends a strong recycling and waste reduction message to the community. This project involves a combination of funding sources: NCDENR, DPPEA Grant, Catawba County Solid Waste Management, and City of Hickory matching funds for total project funds of \$7,700. The funding sources are as follows:

NCDENR, DPPEA Grant	\$7,000
City of Hickory	\$350
Catawba County Solid Waste Management	\$350

The advertising campaign started in September 2005 and runs through February 2006, consisting of two billboards rotated every 60 days at six locations within Catawba County. Billboards located at 1) US 321 Hwy south of Maiden, and 2) US 70/LR Blvd advertised during September and October. Locations 3) Exit 123 on I-40, and 4) US321 1 mile north of I-40 will advertise during November and December. Locations 5) US70 West/US321 Business, and 6) NC Hwy 16 south of NC Hwy 10 will advertise during January and February.

Commissioner Barbara Beatty made a motion to accept a 2005 Community Waste Reduction Recycling Grant from the North Carolina Department of Environment and Natural Resources (NC DENR), Division of Pollution Prevention and Environmental Assistance (DPPEA) for reimbursement of advertising expenses in the amount of \$7,700, and approve the attached budget revision. The motion carried unanimously.

Supplemental Appropriations

Revenue (Increase):	
525-350100-631440	\$7,350
Solid Waste Reduction Grant	
525-350050-690100	\$350
Fund Balance Applied	
Expense (Increase):	
525-350100-841520	\$7,700
Public Relations	

Chair Barnes stated that before they moved onto other reports, she would call upon Assistant County Manager Lee Worsley and the Board of Elections to report on the voting machine issues. Assistant County Manager Worsley came forward to give an update on Senate Bill 323 and introduced Board of Election member David Hood and Larry Brewer, Director of Election and noted he had also been working with Attorney Debra Bechtel on this matter. The North Carolina General Assembly adopted the bill during the last session and was codified into Session Law as 2005-323. The bill dealt with various election issues but the specific provisions that are related to voting machines are the County's concern. This Board has expressed to the State Board of Elections and the Legislature that the County's voting machines meet the requirements specifically related to the paper trail in the provisions of the legislation.

Mr. Worsley pointed out that with this new legislation, all voting equipment in North Carolina will be required to be certified by the State Board of Elections. This can be done through a bid process with the State ITS department. At the time the bid went out, the County's vendor, Hart, expressed some concerns with the bid and some of the requirements of the legislation and they chose not to submit a bid. The County then contacted the State to express its concerns with the bid process and that the County felt its equipment met the provisions of the law and should be certified. The State Board of Elections replied that Hart had an opportunity to get the equipment certified at a December 1, 2005 meeting of the State Board of Elections. The County had discussions with Hart expressing its expectation that Hart participate in the bid and certification process. Mr. Worsley had a conversation with the President of Hart and they indicated they were having conversations with the State Board of Election regarding the meeting on December 1, 2005.

David Hood came forward to speak on the operation of the equipment and its performance at the last election. Mr. Hood said the Board of Elections was disappointed by Hart's decision to not submit a bid for certification. Mr. Hood stated the machines they had purchased two years ago had performed as expected and they had no problems whatsoever with the equipment. He pointed out that this equipment has the ability to have the required voter verifiable paper trail and the County's equipment

already has a paper trail. Mr. Hood said that Hart's problem is with other parts of the law – the criminal and civil penalties that apply; a performance bond requirement and what it is actually securing and the concept of putting Hart's source code in escrow for not for just the people at the State but under the State law that source code can be viewed by the State political party chairman and other designees which is scary to the company that has property rights to this equipment.

Mr. Hood pointed out that if the current machines are not certified, there will be very tight deadlines at looking at new voting machines to have them in place by the statutory time, next May. He made one final point that certification by the State Board of Elections has always been in effect. When the County purchased the machines, it bought certified machines. So, since the rules have changed, all machines have to be recertified.

Chair Barnes asked if there had been any improvement in the other choices of election equipment since the County had purchased the Hart machines. Mr. Hood said there had been some improvements by other manufacturers but he was hopeful that they would not have to look for other equipment.

11. Attorneys' Report.

County Attorney Robert Eades presented a report regarding the use of the County Seal. On July 13, 2005, Catawba County obtained service mark protection of its County Seal. As the holder of a service mark for the County Seal, Catawba County is authorized to control the manner in which the Seal is used. The following information pertains to issues regarding the use of the County Seal by third parties.

It is appropriate to divide any such uses into two categories: commercial and non-commercial. Commercial uses are those in which the Seal would be displayed in the ordinary course of trade as a part of any advertisement, solicitation, or other communication intended to in any way promote a particular product or service. Non-commercial uses are those where there is no element of private monetary gain to be had as a result of the activity.

1. Commercial Uses:

Given the role of Catawba County as a unit of local government, it is inappropriate for the County to in any way endorse - or appear to endorse - particular commercial goods, services, or the commercial activities of any party. Should Catawba County flatly refuse to allow commercial use of the County Seal, that policy would reflect the underlying trade and service mark protection laws: such marks are valuable only insofar as the mark conveys a positive image. The use of a mark, whether by its legitimate holder or by an unauthorized party, suggests that the purpose of using the mark is to convey a positive image and to thereby increase the value of the product or service associated with the image. The most direct and effective policy as to commercial use is simple prohibition and would allow the County to avoid developing a method by which it would evaluate particular proposed commercial uses – a task which would prove to be troublesome and subject to significant controversy.

2. Non-Commercial Uses:

Non-commercial uses are more problematic. It is easy to conceive of such uses that would not initially appear inappropriate. However, upon closer scrutiny, any policy which would allow such uses invites two significant difficulties: who will determine which such uses are appropriate and what standards will be used to make such determinations?

Of these two difficulties, the most serious is the problem of establishing standards used to evaluate the proposed uses. Such standards could not be used to reward favored groups or ideologies while punishing those lacking official favor. We could not, for example, adopt standards that would allow one political party to use the County Seal, but deny that right to another. Put another way, such standards would need to be content-neutral and applicable to all prospective users. Such standards might include the following:

- No entity other than a qualified 501(c) organization or other demonstrably non-profit group may use the Seal;

- Membership in the organization must be open to the general public without regard to race, sex, creed or any other prohibited characteristic;
- The entity must be in compliance with all applicable laws and regulations and be in good standing with any applicable regulatory agency or body;
- The entity must have an active Catawba County Chapter and that chapter must have as its members residents of Catawba County;
- The entity must use the Seal only to denote its physical location in Catawba County and may not either explicitly or implicitly claim any endorsement or other support by Catawba County;
- The entity may not advocate any illegal activities; and
- The entity must agree to comply with any County guidelines regarding use of the Seal and must note on any materials displaying the Seal that it is the registered service mark of Catawba County and include a disclaimer providing that its use does not imply an endorsement or support of the entity's activities by Catawba County.

These standards do not, however, address a fundamental problem: what is to be the County's response when a group meeting all of the above-suggested standards, but nonetheless being repugnant to a significant portion of Catawba County citizens, applies for permission to use the Seal? The County does not have the legal right or authority to choose among competing candidates meeting the threshold requirements and to do so could invite challenges based upon the doctrines of Freedom of Speech and Association.

Of the North Carolina Counties who have obtained service mark protection for their Seal, none allow third parties to use the Seal and the consensus is that it is simply too difficult to draft defensible standards and that the risk of inappropriate use is simply too great. The general position has been to restrict use of the County Seal to official County purposes and is consistent with the general opinion of the School of Government.

Attorney Eades made the recommendation to the Board that they not allow the County Seal to be used for anything other than official County business.

W. R. Lutz, a Catawba County citizen, asked to come forward and speak and voiced his concern regarding this restriction. He discussed the history of the seal and expressed a desire to use the seal in a book which was being published on a 100 year history of farming in Catawba County. Mr. Lutz was assured that the seal could be used for such purposes and Mr. Eades clarified that this type of use, which is purely factual, would not be restricted.

Commissioner Lynn Lail made a motion to restrict the use of the County Seal to official County purposes but not restrict the use for history purposes. The motion carried unanimously.

12. Manager's Report. None

13. Other items of business.

Chair Barnes noted that the next evening was the Farm-City Banquet and Commissioner Barger noted that on that evening a public hearing would also be held on the qualifications of the next president of the community college. Chair Barnes said there had been a very positive announcement regarding the Corning Building being bought by the Future Forward organization for the purposes of an engineering technology center.

14. Adjournment.
Commissioner Barbara Beatty made a motion to adjourn at 8:40 p.m. The motion carried unanimously.

Katherine W. Barnes, Chair
Board of Commissioners

Barbara E. Morris, County Clerk